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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,191	03/31/2004	Amit Bagga	633-024US	7508
47912	7590	12/21/2010	EXAMINER	
Avaya			GYORFI, THOMAS A	
DEMONT & BREYER, LLC			ART UNIT	
100 COMMONS WAY, STE 250			PAPER NUMBER	
HOLMDEL, NJ 07733			2435	
			NOTIFICATION DATE	DELIVERY MODE
			12/21/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@dblaw.com

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/815,191

Applicant(s)

BAGGA ET AL.

Examiner

Thomas Gyorfi

Art Unit

2435

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-17 and 19-27.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kimyen Vu/
Supervisory Patent Examiner, Art Unit 2435

(Continuation of #7) The arguments presented are substantially similar to those discussed in the Interview conducted 11/15/10, and Examiner maintains his position that the prior art reasonably suggests the claim limitations as discussed at that time. Furthermore, with respect to the new exhibits entered into the record via this amendment, the Examiner once again reminds the Applicant that for all intents and purposes, there exists only one Google search engine, and the record clearly shows that the behavior of the Google search engine has been modified numerous times over the course of its existence. Thus, even assuming arguendo that Applicant's exhibits supported his position that one of ordinary skill in the art has no reason to expect that a search engine will actually produce results with the search terms in them - a position the Examiner finds rather absurd - nevertheless the behavior of Google circa 2010 has no bearing on how the Google search engine circa the time of the instant invention would have operated. And as the Examiner has already established, Google's own help pages from 1999-2003 confirm that "by default, Google only returns pages that include all of your search terms" (see the "Basics of Google search" reference entered 11/22/10, and the "Google Beta Help" page entered 10/28/10. So Examiner finds it to be unreasonable for the Applicant to disparage the inventors of the prior art for their failure to solve a problem that did not even exist at the time of their invention(s), let alone the time of the instant invention. Applicant's argument from impermissible hindsight that if Google of the present day no longer functions in a manner conducive to the proper functioning of the instant invention or the prior art, that from that alone it must somehow necessarily follow that Google circa the time of the instant invention must also have broken in this manner - despite the clear evidence to the contrary - is clearly seen to be self-evidently fallacious and absurd.

To recap: the Examiner understands the central argument of the Applicant as follows: the instant invention performs a query on an Internet search engine such as Google, the query comprising the proposed password and at least one keyword for which it would like to determine if a correlation between it and the proposed password exists (specification, page 9, line 10-23). Although the search engine will yield a number of hits in response to the query, and although the invention uses a number of hits to determine if the correlation exists (specification: *Ibid*), Applicant nevertheless contends that the number of hits returned by the search engine is "not" the same as the number of hits used by the instant invention (amendment, page 15). Now the instant specification does provide for the invention the ability to evaluate the documents that satisfy the query to determine if the association exists (specification, page 16, lines 1-3). Therefore, taking all of these facts into account, the Examiner notes that the claimed invention, in order to perform the limitations attributed to it, is understood to download each and every page produced as a result by the search engine, to verify whether or not the keywords are actually present in any of these documents. So, assuming that the sample queries that Applicant in his own exhibits are indicative of bona fide queries that the instant invention would be expected to produce, then the instant invention would be required to personally download and examine 28,600 individual web pages to determine if at least N of them comprise the terms "w@icr#t1" and "David" [exhibit 1]; download 634 web pages to find "w@icr#t1" and "david" [exhibit 4], and download a whopping 426,000,000 web pages to verify that "pAsSwOrD" and "David" do not appear on at least N of said pages. Note that this is the only interpretation of the instant specification in view of Applicant's arguments and that supports the claim; if this is not what the Applicant intended, then Examiner strongly invites the Applicant to clarify what the instant invention actually does to produce the number of hits that it uses to determine a correlation.